

**SUBSTITUTE FOR
HOUSE BILL NO. 4556**

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending sections 12 and 25 of chapter IX (MCL 769.12 and
769.25), section 12 as amended by 2012 PA 319 and section 25 as
added by 2014 PA 22, and by adding sections 27a, 27b, 27c, 27d,
27e, 27f, 27g, 27h, and 27i to chapter IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER IX

Sec. 12. (1) ~~If~~**Subject to subsection (6), if** a person has
been convicted of any combination of 3 or more felonies or attempts
to commit felonies, whether the convictions occurred in this state
or would have been for felonies or attempts to commit felonies in
this state if obtained in this state, and that person commits a



subsequent felony within this state, the person shall be punished ~~upon-on~~ conviction of the subsequent felony and ~~sentencing~~ **sentenced** under section 13 of this chapter as follows:

(a) If the subsequent felony is a serious crime or a conspiracy to commit a serious crime, and 1 or more of the prior felony convictions are listed prior felonies, the court shall sentence the person to imprisonment for not less than 25 years. Not more than 1 conviction arising out of the same transaction ~~shall~~ **may** be considered a prior felony conviction for the purposes of this subsection only.

(b) If the subsequent felony is punishable ~~upon-on~~ a first conviction by imprisonment for a maximum term of 5 years or more or for life, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for life or for a lesser term.

(c) If the subsequent felony is punishable ~~upon-on~~ a first conviction by imprisonment for a maximum term that is less than 5 years, the court, except as otherwise provided in this section or section 1 of chapter XI, may sentence the person to imprisonment for a maximum term of not more than 15 years.

(d) If the subsequent felony is a major controlled substance offense, the person shall be punished as provided by part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

(2) If the court imposes a sentence of imprisonment for any term of years under this section, the court shall fix the length of both the minimum and maximum sentence within any specified limits in terms of years or a fraction of a year, and the sentence so imposed ~~shall-must~~ be considered an indeterminate sentence. The court shall not fix a maximum sentence that is less than the



1 maximum term for a first conviction.

2 (3) A conviction ~~shall~~**must** not be used to enhance a sentence
3 under this section if that conviction is used to enhance a sentence
4 under a statute that prohibits use of the conviction for further
5 enhancement under this section.

6 (4) ~~An~~**Subject to subsection (6), an** offender sentenced under
7 this section or section 10 or 11 of this chapter for an offense
8 other than a major controlled substance offense is not eligible for
9 parole until expiration of the following:

10 (a) For a prisoner other than a prisoner subject to
11 disciplinary time, the minimum term fixed by the sentencing judge
12 at the time of sentence unless the sentencing judge or a successor
13 gives written approval for parole at an earlier date authorized by
14 law.

15 (b) For a prisoner subject to disciplinary time, the minimum
16 term fixed by the sentencing judge.

17 (5) This section and sections 10 and 11 of this chapter are
18 not in derogation of other provisions of law that permit or direct
19 the imposition of a consecutive sentence for a subsequent felony.

20 **(6) This section does not apply to the resentencing of an**
21 **individual under sections 27a to 27i of this chapter.**

22 (7) ~~(6)~~As used in this section:

23 (a) "Listed prior felony" means a violation or attempted
24 violation of any of the following:

25 (i) Section 602a(4) or (5) or 625(4) of the Michigan vehicle
26 code, 1949 PA 300, MCL 257.602a and 257.625.

27 (ii) Article 7 of the public health code, 1978 PA 368, MCL
28 333.7101 to 333.7545, that is punishable by imprisonment for more
29 than 4 years.



(iii) Section 72, 82, 83, 84, 85, 86, 87, 88, 89, 91, 110a(2) or (3), 136b(2) or (3), 145n(1) or (2), 157b, 197c, 226, 227, 234a, 234b, 234c, 317, 321, 329, 349, 349a, 350, 397, 411h(2)(b), 411i, 479a(4) or (5), 520b, 520c, 520d, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.82, 750.83, 750.84, 750.85, 750.86, 750.87, 750.88, 750.89, 750.91, 750.110a, 750.136b, 750.145n, 750.157b, 750.197c, 750.226, 750.227, 750.234a, 750.234b, 750.234c, 750.317, 750.321, 750.329, 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.479a, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

(iv) A second or subsequent violation or attempted violation of section 227b of the Michigan penal code, 1931 PA 328, MCL 750.227b.

(v) Section 2a of 1968 PA 302, MCL 752.542a.

(b) "Prisoner subject to disciplinary time" means that term as defined in section 34 of 1893 PA 118, MCL 800.34.

(c) "Serious crime" means an offense against a person in violation of section 83, 84, 86, 88, 89, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520g(1), 529, or 529a of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.88, 750.89, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, and 750.529a.

Sec. 25. (1) ~~This~~ **Subject to subsection (11), this** section applies to a criminal defendant who was less than 18 years of age at the time ~~he or she~~ **the defendant** committed an offense described in subsection (2) if either of the following circumstances exists:

(a) The defendant is convicted of the offense on or after ~~the effective date of the amendatory act that added this section.~~ **March 14, 2014.**

(b) The defendant was convicted of the offense before ~~the~~



~~effective date of the amendatory act that added this section~~ **March 14, 2014** and either of the following applies:

(i) The case is still pending in the trial court or the applicable time periods for direct appellate review by state or federal courts have not expired.

(ii) On June 25, 2012 the case was pending in the trial court or the applicable time periods for direct appellate review by state or federal courts had not expired.

(2) The prosecuting attorney may file a motion under this section to sentence a defendant described in subsection (1) to imprisonment for life without the possibility of parole if the individual is or was convicted of any of the following violations:

(a) A violation of section 17764(7) of the public health code, 1978 PA 368, MCL 333.17764.

(b) A violation of section 16(5), 18(7), 316, 436(2)(e), or 543f of the Michigan penal code, 1931 PA 328, MCL 750.16, 750.18, 750.316, 750.436, and 750.543f.

(c) A violation of chapter XXXIII of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a.

(d) Any violation of law involving the death of another person for which parole eligibility is expressly denied under state law.

(3) If the prosecuting attorney intends to seek a sentence of imprisonment for life without the possibility of parole for a case described in subsection (1)(a), the prosecuting attorney shall file the motion within 21 days after the defendant is convicted of that violation. If the prosecuting attorney intends to seek a sentence of imprisonment for life without the possibility of parole for a case described under subsection (1)(b), the prosecuting attorney shall file the motion within 90 days after ~~the effective date of~~



1 ~~the amendatory act that added this section.~~ **March 14, 2014.** The
 2 motion ~~shall~~**must** specify the grounds on which the prosecuting
 3 attorney is requesting the court to impose a sentence of
 4 imprisonment for life without the possibility of parole.

5 (4) If the prosecuting attorney does not file a motion under
 6 subsection (3) within the time periods provided for in that
 7 subsection, the court shall sentence the defendant to a term of
 8 years as provided in subsection (9).

9 (5) If the prosecuting attorney files a motion under
 10 subsection (2) requesting that the individual be sentenced to
 11 imprisonment for life without parole eligibility, the individual
 12 shall file a response to the prosecution's motion within 14 days
 13 after receiving notice of the motion.

14 (6) If the prosecuting attorney files a motion under
 15 subsection (2), the court shall conduct a hearing on the motion as
 16 part of the sentencing process. At the hearing, the trial court
 17 shall consider the factors listed in ~~Miller v Alabama, 576 US _____,~~
 18 **Miller v Alabama, 576 US 460**; 183 L Ed 2d 407; 132 S Ct 2455
 19 (2012), and may consider any other criteria relevant to its
 20 decision, including the individual's record while incarcerated.

21 (7) At the hearing under subsection (6), the court shall
 22 specify on the record the aggravating and mitigating circumstances
 23 considered by the court and the court's reasons supporting the
 24 sentence imposed. The court may consider evidence presented at
 25 trial together with any evidence presented at the sentencing
 26 hearing.

27 (8) Each victim ~~shall~~**must** be afforded the right under section
 28 15 of the William Van Regenmorter crime victim's rights act, 1985
 29 PA 87, MCL 780.765, to appear before the court and make an oral



1 impact statement at any sentencing or resentencing of the defendant
2 under this section.

3 (9) If the court decides not to sentence the individual to
4 imprisonment for life without parole eligibility, the court shall
5 sentence the individual to a term of imprisonment for which the
6 maximum term shall be not less than 60 years and the minimum term
7 shall be not less than 25 years or more than 40 years.

8 (10) A defendant who is sentenced under this section ~~shall~~
9 **must** be given credit for time already served but ~~shall~~**must** not
10 receive any good time credits, special good time credits,
11 disciplinary credits, or any other credits that reduce the
12 defendant's minimum or maximum sentence.

13 (11) **This section does not apply to the resentencing of an**
14 **individual under sections 27a to 27i of this chapter.**

15 **Sec. 27a. (1) Notwithstanding any other provision of law and**
16 **except as provided in subsection (6), an incarcerated individual**
17 **who has served not less than 20 years of the incarcerated**
18 **individual's sentence or sentences for any conviction or for a**
19 **combination of convictions may petition the sentencing court for a**
20 **reduction of any or all of the incarcerated individual's sentences**
21 **as provided under this section.**

22 (2) A petition for a sentence reduction under this section may
23 be filed after the date on which the twentieth year of imprisonment
24 begins for an incarcerated individual sentenced to more than 20
25 years of imprisonment.

26 (3) Except as otherwise provided in this subsection, if a
27 petition for a reduction in sentence under this section has been
28 denied, the incarcerated individual shall not file a successive
29 petition until not less than 5 years have elapsed after the date



1 the petition was denied.

2 (4) If a petition for a reduction in sentence under this
3 section has been granted and the total sentence to be served was
4 reduced by not less than 25%, the incarcerated individual shall not
5 file a petition for a second sentencing reduction until not less
6 than 5 years have elapsed after the date the petition was granted.

7 (5) Notwithstanding any other provision of law to the
8 contrary, an incarcerated individual who has not yet served 20
9 years of imprisonment is eligible to petition for a reduction in
10 sentence if the prosecuting attorney in the applicable jurisdiction
11 consents to filing of the petition.

12 (6) Except as otherwise provided in this subsection, no
13 offense disqualifies an incarcerated individual from relief under
14 this chapter. An incarcerated individual who was convicted of any
15 of the following is not entitled to relief under this chapter:

16 (a) A mass shooting offense. For a petition under this
17 section, an offense is considered a mass shooting offense if the
18 sentencing judge or the judge's successor determines, by clear and
19 convincing evidence, that the murders resulted in physical,
20 emotional, or psychological injury to a large number of people who
21 were present at the time of the offense, the murders significantly
22 increased the burden of victim assistance and compensation for the
23 applicable jurisdiction, and the murders arose out of an incident
24 in which the incarcerated individual brought a firearm and
25 ammunition to a location with the intent to commit murder.

26 (b) A violation of section 543f of the Michigan penal code,
27 1931 PA 328, MCL 750.543f.

28 (c) An offense requiring registration under the sex offender
29 registration act, 1994 PA 295, MCL 28.721 to 28.730.



1 (d) Except if the incarcerated individual was a prior victim
2 of domestic violence, 2 or more felonies involving domestic
3 violence.

4 (7) A sentencing court that receives a petition for
5 resentencing under this chapter may reduce a sentence or deny the
6 petition. Notwithstanding any other law or provision, the court
7 shall not increase a sentence as a result of a petition under this
8 section. The court may reduce a mandatory sentence or a sentence
9 imposed as the result of a binding plea or sentencing agreement.

10 (8) As used in this section:

11 (a) "Domestic violence" means that term as defined in section
12 1 of 1978 PA 389, MCL 400.1501.

13 (b) "Mass shooting offense" means an offense that resulted in
14 convictions for 3 or more counts of first degree premeditated
15 murder arising out of a single incident.

16 Sec. 27b. (1) After an individual has served 19 years of
17 imprisonment, the department of corrections shall, within 30 days
18 of the date beginning the incarcerated individual's nineteenth year
19 of incarceration, give written notice of the individual's
20 eligibility to file a petition for a reduction of sentence under
21 section 27a of this chapter to all of the following:

22 (a) The incarcerated individual.

23 (b) The sentencing court.

24 (c) The applicable prosecuting attorney.

25 (d) Any public defense authority in the judicial circuit in
26 which the sentence was imposed.

27 (2) The petition must be filed by the incarcerated individual,
28 counsel for the incarcerated individual, the prosecuting attorney,
29 or the next friend of the incarcerated individual, if the



1 incarcerated individual cannot bring the petition and the next
2 friend is acting in the best interests of the incarcerated
3 individual. As used in this subsection, "next friend" includes, but
4 is not limited to, the incarcerated individual's next of kin or a
5 qualified medical professional.

6 (3) The petition must be filed in writing in the judicial
7 circuit in which the sentence was imposed and may include
8 affidavits, declarations, letters, prison records, or other written
9 and electronic material.

10 (4) The petition must include, at a minimum, all of the
11 following:

12 (a) The name of the petitioner.

13 (b) The name of the incarcerated individual.

14 (c) The applicable case number or case numbers.

15 (d) The offense or offenses of conviction.

16 (e) The current sentence or sentences being served for each
17 case number.

18 (f) The date of the offense and sentence.

19 (g) The name of the trial and sentencing judge.

20 (h) The specific offenses for which the petitioner is
21 requesting resentencing.

22 (i) A factual statement explaining how the incarcerated
23 individual meets the eligibility requirements described in section
24 27a of this chapter.

25 (j) If the petition is filed by the next friend of the
26 incarcerated individual, a factual statement explaining the
27 petitioner's relationship to the incarcerated individual, why the
28 incarcerated individual cannot bring the petition on the
29 incarcerated individual's own behalf, and how the next friend is



1 acting in the best interests of the incarcerated individual.

2 (5) Within 30 days of receipt of a petition, the court shall
3 provide the applicable prosecuting attorney and the incarcerated
4 individual with a copy of the petition, including any attached
5 written or electronic material.

6 (6) A petition must be assigned to the judge who imposed the
7 original sentence on the incarcerated individual for a
8 determination. If, at the time of the petition, the original
9 sentencing judge is no longer available, the petition must be
10 assigned to that judge's successor.

11 (7) After the filing of a petition for a sentencing reduction,
12 the court may direct the parties to expand the record by submitting
13 additional materials relating to the petition. A petition may be
14 freely amended at any time before a hearing.

15 (8) The court shall not honor or permit a waiver of the right
16 to petition for a resentencing under section 27a of this chapter.

17 Sec. 27c. (1) On receiving a petition made under section 27a
18 of this chapter, the sentencing court shall determine whether the
19 incarcerated individual qualifies for a sentence reduction by
20 confirming all of the following:

21 (a) The incarcerated individual has served not less than 20
22 years in prison.

23 (b) The incarcerated individual is not time-barred by a prior
24 petition for a sentence reduction.

25 (c) The incarcerated individual is not excluded from
26 petitioning for a sentence reduction under section 27a(6) of this
27 chapter.

28 (2) If the court determines that the incarcerated individual
29 qualifies for a sentence reduction, that court shall set a date for



1 a resentencing hearing.

2 (3) If the court determines that the incarcerated individual
3 does not qualify for a sentence reduction under the requirements of
4 subsection (1), the court shall enter an order denying the petition
5 and cause a copy of the order to be provided to the petitioner and,
6 if the incarcerated individual is not the petitioner, the
7 incarcerated individual.

8 (4) Unless the court finds good cause to hold the hearing at a
9 later date or the petitioner requests a delay of the hearing, if
10 the court determines that the facts stated in the petition meet the
11 requirements under subsection (1), the court shall set a
12 resentencing hearing not more than 45 days after the date the
13 petition is filed with the court if 1 or more of the following
14 circumstances apply to the petition:

15 (a) The incarcerated individual has 1 or more medical
16 conditions leading to major limitations in activities of daily
17 living, including, but not limited to, a serious mental illness or
18 an intellectual or developmental disability.

19 (b) The incarcerated individual has 1 or more medical
20 conditions that make the incarcerated individual more likely to
21 contract an illness or disease while incarcerated that could lead
22 to death or cause the incarcerated individual to develop a medical
23 condition that prevents the performance of 1 or more activities of
24 daily living without assistance. Such conditions include, but are
25 not limited to, any condition related to a weakened immune system,
26 including human immunodeficiency virus or acquired immune
27 deficiency syndrome; debilitating health conditions that occur as a
28 result of dementia, Alzheimer's disease, or similar degenerative
29 brain disorders; cardiovascular disease; chronic lung disease or



1 asthma; diabetes; hepatitis C; seizure disorders; the need for
2 life-sustaining care such as feeding tubes or colostomy bags;
3 disabling neurological disorders such as multiple sclerosis or
4 amyotrophic lateral sclerosis; or any condition that requires or is
5 expected to require specialty care or recurrent hospitalizations.

6 (c) The petition is filed by the prosecuting attorney.

7 (5) Unless the court finds good cause to hold the hearing at a
8 later date or the petitioner requests a delay of the hearing, if
9 the court determines that the facts stated in the petition meet the
10 requirements under subsection (1), and if subsection (4) does not
11 apply to a petition but 1 or more of the following circumstances do
12 apply to the petition, the court shall set a resentencing hearing
13 not more than 90 days after the date the petition is filed with the
14 court:

15 (a) The incarcerated individual has served over 30 years of
16 the incarcerated individual's sentence.

17 (b) The incarcerated individual is over 55 years of age.

18 (6) Unless the court finds good cause to hold the hearing at a
19 later date or the petitioner requests a delay of the hearing, if
20 the court determines that the facts stated in the petition meet the
21 requirements under subsection (1) and neither subsection (4) nor
22 (5) apply to a petition, the court shall set a resentencing hearing
23 not more than 180 days after the date the petition is filed with
24 the court.

25 (7) If the court determines that the facts stated in the
26 petition meet the requirements under subsection (1) and the matter
27 is subsequently reassigned to a successor judge, the court shall
28 not reconsider the sufficiency of the petition or decline to set a
29 hearing.



1 (8) When the court sets a resentencing hearing under this
2 section, the court shall provide notice of the hearing to the
3 incarcerated individual, counsel for the incarcerated individual,
4 the department of corrections, the prosecuting attorney, and the
5 next friend of the incarcerated individual, if applicable.

6 (9) In a hearing under this section, the court may allow
7 parties to present any evidence that the court deems relevant to
8 the issue of the propriety of a reduction in sentence. The evidence
9 may include documents, live testimony, tangible objects, or any
10 other class of evidence or information pertinent to sentencing. The
11 court has exclusive discretion to determine the relevance of any
12 proposed evidence. The incarcerated individual must be permitted to
13 testify or to remain silent at the hearing.

14 (10) Unless the incarcerated individual waives the right to be
15 present, the incarcerated individual must be present during a
16 hearing under this section. The requirement under this subsection
17 may be satisfied by the incarcerated individual appearing by video
18 teleconference if the incarcerated individual consents to video
19 appearance.

20 (11) A hearing under this section must be conducted on the
21 record.

22 Sec. 27d. (1) In a hearing conducted under section 27c of this
23 chapter, the sentencing court shall consider all relevant evidence,
24 which includes, but is not limited to, all of the following:

25 (a) The age of the incarcerated individual at the time of the
26 offense and relevant research regarding child, adolescent, and
27 young adult brain development.

28 (b) The age of the incarcerated individual at the time of the
29 sentence modification petition and relevant research regarding the



1 decline in criminal behavior as individuals age.

2 (c) The nature of the offense, including changing societal
3 attitudes regarding the propriety of criminalizing the offense and
4 the appropriate sentence for the offense.

5 (d) The history and characteristics of the incarcerated
6 individual at the time of the petition for a reduction in sentence,
7 including rehabilitation demonstrated by the incarcerated
8 individual, the incarcerated individual's disciplinary record while
9 incarcerated, and the incarcerated individual's efforts to
10 participate in educational, therapeutic, and vocational
11 opportunities while incarcerated.

12 (e) Any oral or written statements provided by the victim's
13 representative.

14 (f) The circumstances of the offense, including the
15 incarcerated individual's role in its commission, whether the
16 incarcerated individual was under the influence of another, and the
17 proportionality of the incarcerated individual's sentence compared
18 to that received by other parties to the offense.

19 (g) The circumstances of the incarcerated individual's
20 incarceration, including the incarcerated individual's conditions
21 of confinement, the impact of the incarcerated individual's
22 incarceration on the community, and any evidence that the
23 incarcerated individual has been subjected to physical, sexual, or
24 psychological abuse while incarcerated.

25 (h) Any evidence concerning the incarcerated individual's
26 current physical or mental health and the incarcerated individual's
27 health at the time of the offense.

28 (i) Any evidence concerning plea offers by the prosecuting
29 attorney.



1 (j) Any evidence that the incarcerated individual was denied
2 effective assistance of counsel at any stage in the case resulting
3 in the original sentence, including ineffective assistance of
4 counsel during plea bargaining.

5 (k) Any evidence that the incarcerated individual was
6 wrongfully convicted.

7 (l) Any evidence that the incarcerated individual was subjected
8 to human trafficking and that the victimization was a contributing
9 factor to the incarcerated individual's criminal behavior.

10 (m) Any evidence that the incarcerated individual was
11 subjected to physical, sexual, or psychological abuse by an
12 intimate partner or a family or household member and that the
13 victimization was a contributing factor to the incarcerated
14 individual's criminal behavior.

15 (n) The incarcerated individual's parole guidelines score.

16 (o) The incarcerated individual's family and home environment
17 at the time of the offense, including any evidence of childhood
18 abuse or neglect, lack of adequate parenting or education, prior
19 exposure to violence, and susceptibility to psychological damage or
20 emotional disturbance.

21 (p) Any evidence about whether the individual might have been
22 charged and convicted of a lesser offense if not for an
23 incompetency associated with youth, intellectual disability, or
24 mental illness. This includes any evidence of the incarcerated
25 individual's inability to engage with police officers or
26 prosecutors or incapacity to assist defense counsel.

27 (q) Any other information the court determines relevant to the
28 decision of the court.

29 (2) At the conclusion of the hearing, if the sentencing court



1 finds that the petitioner has shown by a preponderance of the
2 evidence that it is in the interest of justice to reduce the
3 incarcerated individual's sentence, the court shall resentence the
4 incarcerated individual to an appropriate reduced sentence.

5 (3) The court shall set forth, either on the record or in
6 writing within 30 days of the hearing, the reasons for granting or
7 denying a petition for resentencing.

8 Sec. 27e. (1) In imposing the new term to be served by the
9 incarcerated individual, the court shall credit the incarcerated
10 individual for any jail time credited toward the subject conviction
11 and for any period of incarceration served under the sentence
12 originally imposed.

13 (2) If the court finds that the incarcerated individual no
14 longer poses a meaningful risk to the community, there is a
15 rebuttable presumption that the incarcerated individual's sentence
16 must be reduced by not less than 20% or to no longer than 5 years
17 of incarceration from the date of the filing of the petition,
18 whichever results in a shorter period of incarceration.

19 (3) If the prosecuting attorney is the petitioner, the new
20 term of incarceration to be served by the incarcerated individual
21 must not exceed the recommendation of the petitioner. The court may
22 impose a shorter term of incarceration than the term recommended by
23 the petitioner, including by ordering immediate release.

24 (4) In imposing the new term to be served by the incarcerated
25 individual, the court shall impose a sentence of time served or a
26 term of years. The court shall not impose life with parole.

27 Sec. 27f. (1) Once a hearing date has been set for
28 resentencing under this chapter, the prosecuting attorney shall
29 promptly notify the victim of the offense for which the application



1 was filed and the hearing date. The notice must be by first-class
2 mail to the victim's last known address. The victim or the victim's
3 designee has the right to appear and the right, as otherwise
4 provided by law, to make a statement at the resentencing hearing of
5 the incarcerated individual regarding the impact of the offense
6 conduct on the victim. The prosecuting attorney shall promptly
7 notify the victim of any new sentence imposed under this chapter.

8 (2) If the incarcerated individual's underlying conviction is
9 homicide, the prosecuting attorney shall consult with the victim's
10 family before making any filing in relation to a petition for
11 resentencing.

12 (3) If the incarcerated individual would be otherwise
13 ineligible for relief but for the prosecuting attorney's consent
14 under section 27a(5) of this chapter, the prosecuting attorney
15 shall make reasonable efforts to consult with the victim before
16 consenting to the petition.

17 (4) Resentencing under section 27e of this chapter does not
18 disturb any restitution awarded at the original sentencing.

19 (5) As used in this section, "victim" means that term as
20 defined in sections 2 and 61 of the William Van Regenmorter crime
21 victim's rights act, 1985 PA 87, MCL 780.752 and 780.811.

22 Sec. 27g. (1) An appeal from a resentencing under section 27e
23 of this chapter may be taken by the incarcerated individual,
24 petitioner, or prosecuting authority. An appeal from resentencing
25 under this chapter is in the same manner, either by right or by
26 leave, as a first appeal from an initial sentence at the time of
27 conviction.

28 (2) An appeal from a denial of resentencing under this chapter
29 may be taken by the incarcerated individual or petitioner, if the



1 petitioner is not the incarcerated individual. An appeal from a
2 denial of resentencing under this chapter is in the same manner,
3 either by right or by leave, as a first appeal from an initial
4 sentence at the time of conviction.

5 Sec. 27h. (1) Resentencing under section 27e of this chapter
6 does not abridge or modify any existing remedy an incarcerated
7 individual may have for habeas corpus or other postconviction
8 relief as provided by court rule or law, or any other legal
9 framework.

10 (2) A petition filed under section 27a of this chapter does
11 not impact and is not impacted by any pending petitions for habeas
12 corpus or other postconviction proceedings provided for by court
13 rule or law, nor shall the denial of a petition under section 27a
14 of this chapter preclude such remedies from being granted.

15 Sec. 27i. Subject to appropriation, any savings realized as a
16 result of the amendatory act that added this section must be
17 utilized to fund the judiciary, personnel to represent this state,
18 petitioners in proceedings under this chapter, victim services, and
19 community-based crime prevention programs.

